



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

February 5, 2014

MEMORANDUM

To: Representative Jacque

From: Eric Mueller, Legislative Attorney, (608) 261-7032

Subject: Technical Memorandum to **2013 AB 725** (LRB-0203/3) by **DOR**

We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

February 4, 2014

TO: Eric Mueller
Legislative Reference Bureau

FROM: Mike Wagner
Department of Revenue

SUBJECT: Technical Memorandum on Assembly Bill 725: Relating to Collection of Certain Utility Arrearages by a Municipal Utility and the Provision of Municipal Utility Service to Tenants

The Department has the following concerns related to the bill:

1. Section 3 – s. 66.0809(3m)(b) indicates the municipal lien transfers to the property owner if the property owner, rather than the tenant, pays the delinquent utility bills. DOR will not generally know if the property owner has a legitimate lien against the tenant for unpaid municipal electricity or water bills.
2. Section 19 – s. 71.935(2)(b) requires municipalities, and allows the property owner, to certify unpaid electricity/water charges of their tenant to the tax refund intercept program (TRIP) for refund interception. Accepting debt directly from individuals/businesses for tax refund setoff creates significant administrative costs for DOR related to:
 - a) Determining if the debt is legitimate
 - b) Setting up a mechanism for payment to each property owner
 - c) Keeping track of each property owner to ensure they can be reached if the tenant claims the debt has been paid or if a payment is intercepted for the property owner
 - d) Providing customer service to each property owner who will want payment and process updates

In addition, before the landlord certifies the debt for collection through TRIP, the municipal utility must inactivate the debt so DOR does not collect the debt twice.

As an alternative, by requiring all debt for unpaid utilities to be certified to DOR from the

municipality, any refunds intercepted to pay the debt can be sent to the municipality for distribution to the property owner. The municipality is in a better position to work with the tenant and property owner on balances still due for the unpaid utility bills.

This alternative would require the following drafting changes:

- Remove "or property owner may" in page 9, Section 19, line 14
- Remove "The property owner shall certify the debt to the department in the manner prescribed by the department" in page 9, Section 19, line 17-18.
- Remove "or property owner" in page 9, Section 20, line 24
- Remove "or property owner" in page 10, Section 21, line 17
- Remove "or property owner" in page 10, Section 22, line 20 and line 22

3. Section 23 – This section requires DOR to provide a document to property owners that informs the property owner and tenant of the process available to certify unpaid municipal utility debt to DOR for refund setoff. DOR does not maintain a list of landlords or rental properties. The Department of Agriculture, Trade and Consumer Protection often provides guidance for landlords and tenants.

4. Section 15 & 16 – These sections modify the definition of municipal debt to include debt certified by property owners. As a result, this debt will be offset prior to tribal obligations as provided in the hierarchy of debt setoff in sec. 71.93(a).

If this is not the intent of the legislation, the setoff hierarchy could be adjusted so that tribal obligations (which are collected pursuant to an agreement with DOR) precede property owner debt.

This alternative would require the following drafting changes:

- Change sec. 71.93(3)(a)6. to read: "Debt certified under s. 71.935(2), except a lien under s. 66.0809(3m)"
- Renumber sec. 71.93(3)(a)9. to 10.
- Change sec. 71.93(3)(a)9. to read: "A lien under s. 66.0809(3m)."

5. DOR cannot make the necessary programming and procedural changes within 6 months of enactment of the bill. A minimum of 9 months after enactment of the bill is needed.

If you have any questions regarding this technical memorandum, please contact Brad Caruth at (608) 261-8984 or bradley.caruth@revenue.wi.gov.

cc: Representative Jacque